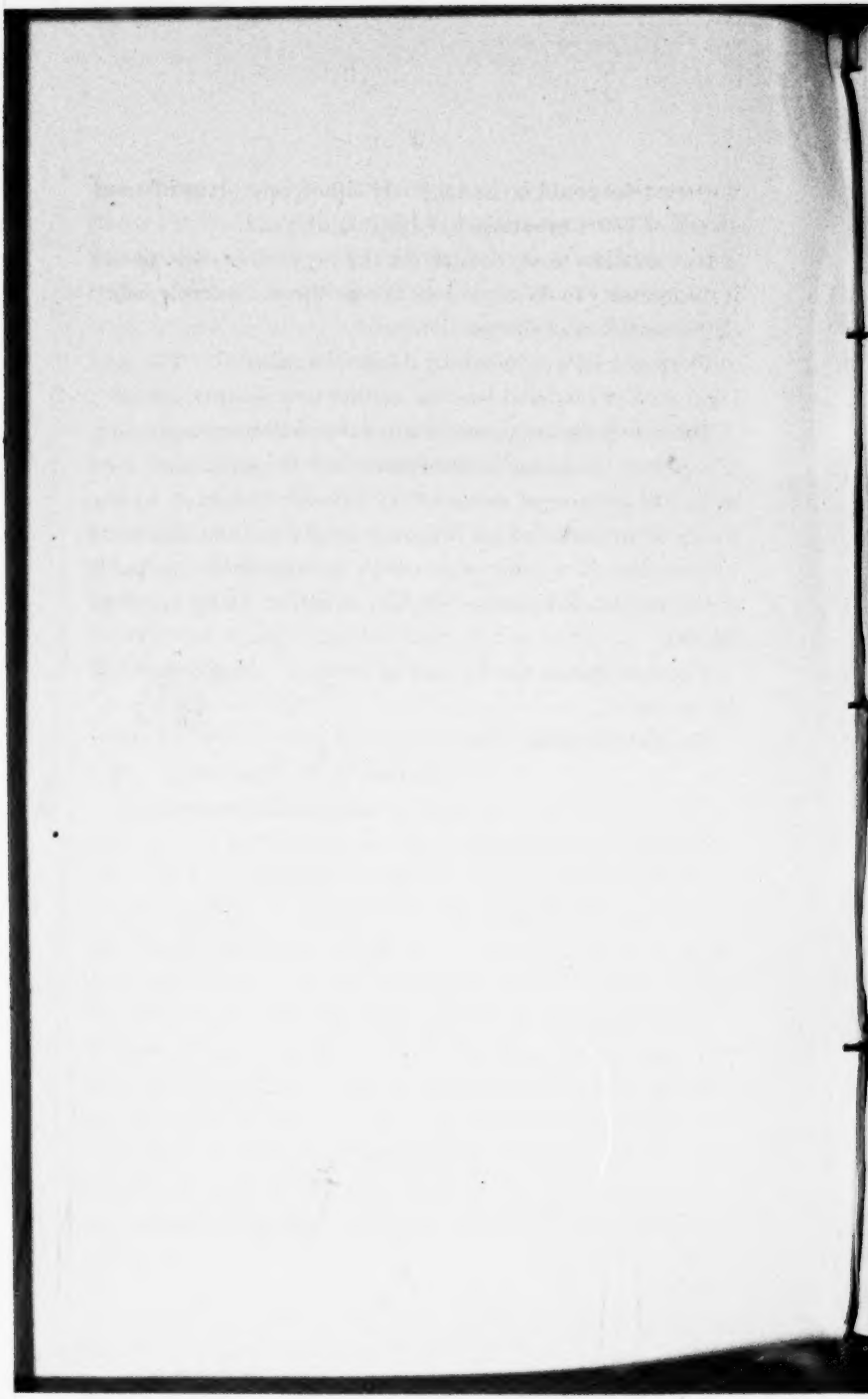


MAR 4 1898
JAMES H. McKENNEY
CL

No. 591.

(on mo.)

Bef. of Mynderse for Appts.

Filed Mar. 4, 1898.

Supreme Court of the United States, 1

October Term, 1897.

FLINT, EDDY & COMPANY, Respondents-Appellants, AGAINST GEORGE CHRISTALL and another, Libellants-Appellees.	No. 591.

2

Notice of Motion.

Please take notice, that the annexed motion for the advancement of the case arising upon the certificate herein sent up to this Court by the United States Circuit Court of Appeals for the Second Circuit, will be presented at the opening of the Court, at the Capitol, in the City of Washington, on Monday, March 7, 1898.

New York, March 3, 1898.

BUTLER, NOTMAN, JOLINE & MYNDERSE, 3
Proctors for Appellants.

To Messrs. COWEN, WING, PUTNAM & BURLINGHAM,
Proctors for Appellees.

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1897.

FLINT, EDDY & COMPANY, Respondents-Appellants, AGAINST GEORGE CHRISTALL and another, Libellants-Appellees.	No. 591.

Motion to advance case.

Come now the appellants, Flint, Eddy & Company, a corporation, by Wilhelmus Mynderse, their counsel, and move this Honorable Court that this case, arising under the certificate sent up to this Court by the United States Circuit Court of Appeals for the Second Circuit, be advanced ~~and submitted~~ under the rules of this Court.

New York, March 3, 1898.

FLINT, EDDY & COMPANY,
by
WILHELMUS MYNDERSE,
Counsel.

SUPREME COURT OF THE UNITED STATES, 7

OCTOBER TERM, 1897.

FLINT, EDDY & CO, Respondents, Appellants, AGAINST GEORGE CHRISTALL and another, Libellants, Appellees.	No. 591.

8

Statement on motion to advance.

The certificate sent up herein by the Circuit Court of Appeals has been filed and docketed as No. 591 of October Term, 1897.

The libellants, trustees upon a bond for the payment of general average, to be stated and apportioned "in accordance with established usages and laws in similar cases," sued the respondents, signers of the bond and owners of cargo, for contribution in general average to a loss arising from sacrifices made by the owner of the vessel, consequent upon a stranding which occurred in course of a voyage from Trinidad to New York, through the negligent navigation of the master.

The question presented by the certificate is whether the 9
owner, having exercised the diligence specified in Section 3 of the Act of February 13, 1893, known as the Harter Act, is entitled to contribution in general average for such sacrifice.

The District Court held that he was so entitled, and a copy of its opinion is appended to the certificate.

It is desirable that the Circuit Court of Appeals should have this Court's early answer to the question certified, not only for its guidance in the particular case, but also because the subject is of general commercial importance. A like question arises in a considerable proportion of gen-

10 eral average losses, not only in this country, but also, by reason of the frequent adoption in bills of lading of a reference to the Harter Act, abroad; and in all such cases, the decision of this Court would be controlling.

Various other cases in this Court involving the construction and effect of the same section of the statute, and presenting questions related to though not decisive of those raised here, have been set down to be heard together, and have been or soon will be reached for argument.

Although this certificate was not issued in sufficient time to permit application for a hearing with such other cases, yet it is believed to be desirable that this case should be presented in advance of its regular order, so that the various questions which have arisen under Section 3 of
11 the Harter Act may be before the Court as nearly at the same time as may be, and that the commercial community may, at an early day, have the benefit of a decision of this Court comprehending the effect of said section in its various bearings.

NEW YORK, March 3, 1898.

Respectfully submitted,

WILHELMUS MYNDERSE,
Of Counsel for Appellants.